

William Chong

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CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of my employment with VIANT, its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of compensation now and hereafter paid to me by Company, I agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without cause, at the option either of the Company or myself, with or without notice.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical

incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that I develop entirely on my own time without using the Company's equipment, supplies, facilities, or trade secret information except for those inventions that either: (i) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company, or (ii) result from any work performed by me for the employer.

I will advise the Company promptly in writing of any inventions that I believe meet the above criteria and are not otherwise disclosed on **Exhibit A**.

4. **Conflicting Employment.** I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, software, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as **Exhibit B**.

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees.** I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage, take away or hire employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines and Morals Clause.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit C hereto.

I agree to represent and warrant that prior to the date hereof I have not been convicted of a felony or serious misdemeanor or otherwise been engaged in criminal activities. I acknowledge and agree that engaging in any such activities during the term of my employment shall be grounds for immediate termination.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration and Equitable Relief.**

(a) **Arbitration.** Except as provided in Section 10(b) below, I agree that any dispute or controversy arising out of, relating in any way to this Agreement shall be settled by binding arbitration to be held in Suffolk County, Massachusetts, applying Massachusetts law, and I hereby consent to the personal jurisdiction of the state and federal courts located in Massachusetts for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the Company and I are participants. The decision of the arbitrator shall be final, conclusive and binding, and judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.

Except as provided in this Agreement, the arbitration shall be in accordance with the rules of the American Arbitration Association. The arbitrator shall have the jurisdiction to hear and rule on pre-hearing disputes and is authorized to hold pre-hearing conferences by telephone or in person. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. The arbitrator may grant injunctions or other relief in such dispute or controversy.

I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF, TO BINDING ARBITRATION. I UNDERSTAND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ANY AND ALL CLAIMS ARISING OUT OF ALL ASPECTS OF THE RELATIONSHIP BETWEEN THE COMPANY AND MYSELF.

(b) Equitable Remedies. I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, 5, or 7 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy, the right to obtain an injunction restraining such breach or threatened breach and specific performance of any such provision. I further agree that no bond or other security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and the ordering of such specific performance.

11. General Provisions.

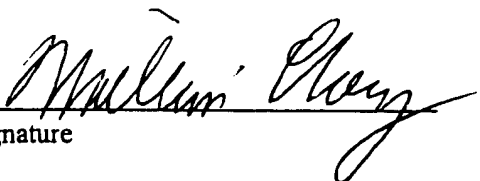
(a) Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by the laws of Massachusetts. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in Suffolk County, Massachusetts, for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

(b) Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

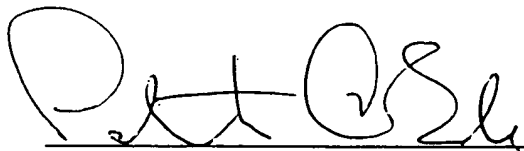
(c) Severability. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Effective Date: 5/31/98


Signature

WILLIAM CRONO
Name of Employee (typed or printed)


Witness

PATRICK A. EDRINGTON
Name of Witness (typed or printed)

EXHIBIT A

**LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP**

Title

Date

**Identifying Number
or Brief Description**

_____ No inventions or improvements

_____ Additional Sheets Attached

Signature of Employee

Print Name of Employee

Date: _____

EXHIBIT B

**VIA
TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to SILICON VALLEY INTERNET PARTNERS, its subsidiaries, affiliates, successors or assigns (together, the "Company").

I further certify that I have complied with all the terms of the Company's Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, I will not hire any employees of the Company and I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Signature of Employee

Print Name of Employee

Date: _____

EXHIBIT C

VIA CONFFLICT OF INTEREST GUIDELINES

It is the policy of SILICON VALLEY INTERNET PARTNERS to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)

2. Accepting or offering substantial gifts, excessive entertainment, favors or payments which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the company.

3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.

4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.

5. Initiating or approving any form of personal, sexual or social harassment of employees.

6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.

7. Borrowing from or lending to employees, customers or suppliers.

8. Acquiring real estate of interest to the Company.

9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.

10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.

11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.



CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

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(a) Company Information. I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

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3. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) Assignment of Inventions. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

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incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) Exception to Assignments. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that I develop entirely on my own time without using the Company's equipment, supplies, facilities, or trade secret information except for those inventions that either: (i) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company, or (ii) result from any work performed by me for the employer.

I will advise the Company promptly in writing of any inventions that I believe meet the above criteria and are not otherwise disclosed on Exhibit A.

4. Conflicting Employment. I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. Returning Company Documents. I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, software, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as Exhibit B.

6. Notification of New Employer. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. Solicitation of Employees. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage, take away or hire employees of the Company, either for myself or for any other person or entity.

8. Conflict of Interest Guidelines and Morals Clause. I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit C hereto.

I agree to represent and warrant that prior to the date hereof I have not been convicted of a felony or serious misdemeanor or otherwise been engaged in criminal activities. I acknowledge and agree that engaging in any such activities during the term of my employment shall be grounds for immediate termination.

9. Representations. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. Arbitration and Equitable Relief.

(a) Arbitration. Except as provided in Section 10(b) below, I agree that any dispute or controversy arising out of, relating in any way to this Agreement shall be settled by binding arbitration to be held in Suffolk County, Massachusetts, applying Massachusetts law, and I hereby consent to the personal jurisdiction of the state and federal courts located in Massachusetts for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the Company and I are participants. The decision of the arbitrator shall be final, conclusive and binding, and judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.

Except as provided in this Agreement, the arbitration shall be in accordance with the rules of the American Arbitration Association. The arbitrator shall have the jurisdiction to hear and rule on pre-hearing disputes and is authorized to hold pre-hearing conferences by telephone or in person. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgement by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. The arbitrator may grant injunctions or other relief in such dispute or controversy.

I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF, TO BINDING ARBITRATION. I UNDERSTAND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ANY AND ALL CLAIMS ARISING OUT OF ALL ASPECTS OF THE RELATIONSHIP BETWEEN THE COMPANY AND MYSELF.

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(b) Equitable Remedies. I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, 5, or 7 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy, the right to obtain an injunction restraining such breach or threatened breach and specific performance of any such provision. I further agree that no bond or other security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and the ordering of such specific performance.

11. General Provisions.

(a) Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by the laws of Massachusetts. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in Suffolk County, Massachusetts, for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

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(c) Severability. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: _____



Signature

BRUCE FOREST

Name of Employee (typed or printed)



Witness

MITZI FOREST

Name of Witness (typed or printed)


EXHIBIT A

LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	Date	Identifying Number or Brief Description
-------	------	--

 X No inventions or improvements

 Additional Sheets Attached


Signature of Employee

BRUCE FOREST
Print Name of Employee

Date: _____

EXHIBIT B

**VIAIT
TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to SILICON VALLEY INTERNET PARTNERS, its subsidiaries, affiliates, successors or assigns (together, the "Company").

I further certify that I have complied with all the terms of the Company's Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, I will not hire any employees of the Company and I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Signature of Employee

Print Name of Employee

Date: _____

EXHIBIT C

VIAVI
CONFLICT OF INTEREST GUIDELINES

It is the policy of SILICON VALLEY INTERNET PARTNERS to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

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2. Accepting or offering substantial gifts, excessive entertainment, favors or payments which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal, sexual or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.
9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.
10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.
11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.



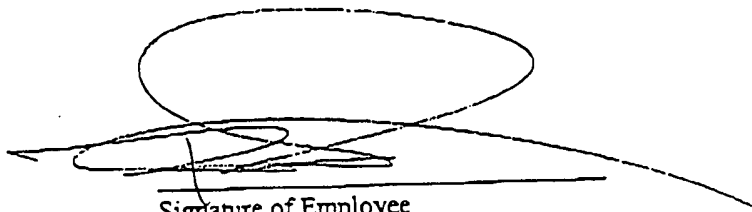
V I A N T
TERMINATION CERTIFICATION

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to V I A N T, its subsidiaries, affiliates, successors or assigns (together, the "Company").

I further certify that I have complied with all the terms of the Company's Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, [REDACTED] *BMF*
[REDACTED] *BMF* I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.


Signature of Employee

BRUCE FORSTER
Print Name of Employee

Date: 11/7/00

Steven Keonig



CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT AGREEMENT

As a condition of my employment with VIANT, its subsidiaries, affiliates, successors or assigns (together the "Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company, I agree to the following:

1. **At-Will Employment.** I understand and acknowledge that my employment with the Company is for an unspecified duration and constitutes "at-will" employment. I acknowledge that this employment relationship may be terminated at any time, with or without cause, at the option either of the Company or myself, with or without notice.

2. **Confidential Information.**

(a) **Company Information.** I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company. I understand that "Confidential Information" means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved.

(b) **Former Employer Information.** I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information.** I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. **Inventions.**

(a) **Inventions Retained and Licensed.** I have attached hereto, as Exhibit A, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process or machine.

(b) **Assignment of Inventions.** I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

(c) **Inventions Assigned to the United States.** I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) **Maintenance of Records.** I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) **Patent and Copyright Registrations.** I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical

incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) **Exception to Assignments.** I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention that I develop entirely on my own time without using the Company's equipment, supplies, facilities, or trade secret information except for those inventions that either: (i) relate at the time of conception or reduction to practice of the invention to the Company's business, or actual or demonstrably anticipated research or development of the Company, or (ii) result from any work performed by me for the employer.

I will advise the Company promptly in writing of any inventions that I believe meet the above criteria and are not otherwise disclosed on **Exhibit A.**

4. **Conflicting Employment.** I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. **Returning Company Documents.** I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, software, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns. In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as **Exhibit B.**

6. **Notification of New Employer.** In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. **Solicitation of Employees.** I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without cause, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage, take away or hire employees of the Company, either for myself or for any other person or entity.

8. **Conflict of Interest Guidelines and Morals Clause.** I agree to diligently adhere to the Conflict of Interest Guidelines attached as Exhibit C hereto.

I agree to represent and warrant that prior to the date hereof I have not been convicted of a felony or serious misdemeanor or otherwise been engaged in criminal activities. I acknowledge and agree that engaging in any such activities during the term of my employment shall be grounds for immediate termination.

9. **Representations.** I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

10. **Arbitration and Equitable Relief.**

(a) **Arbitration.** Except as provided in Section 10(b) below, I agree that any dispute or controversy arising out of, relating in any way to this Agreement shall be settled by binding arbitration to be held in Suffolk County, Massachusetts, applying Massachusetts law, and I hereby consent to the personal jurisdiction of the state and federal courts located in Massachusetts for any action or proceeding arising from or relating to this Agreement or relating to any arbitration in which the Company and I are participants. The decision of the arbitrator shall be final, conclusive and binding, and judgment may be entered on the arbitrator's decision in any court of competent jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.

Except as provided in this Agreement, the arbitration shall be in accordance with the rules of the American Arbitration Association. The arbitrator shall have the jurisdiction to hear and rule on pre-hearing disputes and is authorized to hold pre-hearing conferences by telephone or in person. The arbitrator shall have the authority to entertain a motion to dismiss and/or a motion for summary judgment by any party and shall apply the standards governing such motions under the Federal Rules of Civil Procedure. The arbitrator may grant injunctions or other relief in such dispute or controversy.

I UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I AGREE TO SUBMIT ANY CLAIMS ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT OR THE INTERPRETATION, VALIDITY, CONSTRUCTION, PERFORMANCE, BREACH OR TERMINATION THEREOF, TO BINDING ARBITRATION. I UNDERSTAND THAT THIS ARBITRATION CLAUSE CONSTITUTES A WAIVER OF MY RIGHT TO A JURY TRIAL AND RELATES TO THE RESOLUTION OF ALL DISPUTES RELATING TO ANY AND ALL CLAIMS ARISING OUT OF ALL ASPECTS OF THE RELATIONSHIP BETWEEN THE COMPANY AND MYSELF.

(b) **Equitable Remedies.** I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, 5, or 7 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy, the right to obtain an injunction restraining such breach or threatened breach and specific performance of any such provision. I further agree that no bond or other security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and the ordering of such specific performance.

11. **General Provisions.**

(a) **Governing Law; Consent to Personal Jurisdiction.** This Agreement will be governed by the laws of Massachusetts. I hereby expressly consent to the personal jurisdiction of the state and federal courts located in Suffolk County, Massachusetts, for any lawsuit filed there against me by the Company arising from or relating to this Agreement.

(b) **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and merges all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

(c) **Severability.** If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) **Successors and Assigns.** This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

Date: 7/1/98

Steven R. Koenig
Signature

Steven R. Koenig
Name of Employee (typed or printed)

[Signature]
Witness

A. Carney
Name of Witness (typed or printed)

EXHIBIT A

**LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP**

Title	Date	Identifying Number or Brief Description
--------------	-------------	--

_____ No inventions or improvements

_____ Additional Sheets Attached

Signature of Employee

Print Name of Employee

Date: _____

EXHIBIT B

**VIANT
TERMINATION CERTIFICATION**

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to VIANT, its subsidiaries, affiliates, successors or assigns (together, the "Company").

I further certify that I have complied with all the terms of the Company's Confidential Information and Invention Assignment Agreement signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Confidential Information and Invention Assignment Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, I will not hire any employees of the Company and I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Signature of Employee

Print Name of Employee

Date: _____

EXHIBIT C

VIANT CONFLICT OF INTEREST GUIDELINES

It is the policy of VIANT to conduct its affairs in strict compliance with the letter and spirit of the law and to adhere to the highest principles of business ethics. Accordingly, all officers, employees and independent contractors must avoid activities which are in conflict, or give the appearance of being in conflict, with these principles and with the interests of the Company. The following are potentially compromising situations which must be avoided. Any exceptions must be reported to the President and written approval for continuation must be obtained.

1. Revealing confidential information to outsiders or misusing confidential information. Unauthorized divulging of information is a violation of this policy whether or not for personal gain and whether or not harm to the Company is intended. (The Confidential Information and Invention Assignment Agreement elaborates on this principle and is a binding agreement.)
2. Accepting or offering substantial gifts, excessive entertainment, favors or payments which may be deemed to constitute undue influence or otherwise be improper or embarrassing to the Company.
3. Participating in civic or professional organizations that might involve divulging confidential information of the Company.
4. Initiating or approving personnel actions affecting reward or punishment of employees or applicants where there is a family relationship or is or appears to be a personal or social involvement.
5. Initiating or approving any form of personal, sexual or social harassment of employees.
6. Investing or holding outside directorship in suppliers, customers, or competing companies, including financial speculations, where such investment or directorship might influence in any manner a decision or course of action of the Company.
7. Borrowing from or lending to employees, customers or suppliers.
8. Acquiring real estate of interest to the Company.
9. Improperly using or disclosing to the Company any proprietary information or trade secrets of any former or concurrent employer or other person or entity with whom obligations of confidentiality exist.
10. Unlawfully discussing prices, costs, customers, sales or markets with competing companies or their employees.
11. Making any unlawful agreement with distributors with respect to prices.

12. Improperly using or authorizing the use of any inventions which are the subject of patent claims of any other person or entity.

13. Engaging in any conduct which is not in the best interest of the Company.

Each officer, employee and independent contractor must take every necessary action to ensure compliance with these guidelines and to bring problem areas to the attention of higher management for review. Violations of this conflict of interest policy may result in discharge without warning.



Viant Corporation
89 South Street
Boston, MA 02111
617-531-8700 main
617-531-3803 fax
<http://www.VIANT.com>

Master Services Agreement

MSA Number: _____ Effective Date: May 25, 1999

Customer: Sony Pictures Digital Entertainment Inc.
10202 West Washington Boulevard
Culver City, California 90232-3195

Administrative Contact:

Name: Scott Sherr
Title: V.P., Business Development and Strategy.
Phone: 310-840-8629
Fax: 310-840-8670
E-mail: sscherr@sonypictures.com
Address (if different): _____

Technical Contact:

Name: Doug Chey
Title: SVP, Technology
Phone: 310 - 840-8851
Fax: 310-840-8707
E-mail: dchey@sonypictures.com
Address (if different): _____

Legal Contact:

Name: Corli Berg
Title: SVP Business Affairs
Phone: 310 840 7330
Fax: 310 840 7332
E-mail: cberg@sonypictures.com
Address (if different): _____

Invoices:

Name: Scott Peyton
Title: Finance
Phone: 310-840-7303
Fax: 310-840-7307
E-mail: speyton@sonypictures.com
Address (if different): _____

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**MASTER SERVICES AGREEMENT
BETWEEN
VIAIT
AND**

SONY PICTURES DIGITAL ENTERTAINMENT INC.

This MASTER SERVICES AGREEMENT ("Agreement") is made as of the Effective Date set forth on the cover of this document by and between Viant Corporation, having its principal place of business at 89 South Street, Boston, MA 02111 ("Viant") and Sony Pictures Digital Entertainment Inc. ("Customer").

WHEREAS, Customer wishes to engage Viant to provide it with certain services as described in the applicable Work Order or Engagement Letter (each as defined below) and the Exhibits, if any, attached thereto;

WHEREAS, Viant is willing to provide such services on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the parties hereto hereby agree as follows:

1. Definitions

(a) "Confidential Information" shall have the meaning set forth in Section 5(a) below.

(b) "Course Materials" shall mean any and all reference manuals, student guides, demonstration software and other training materials provided by Viant in connection with Training Services including, without limitation, materials provided by third party vendors to Viant specifically for Viant Training Services.

(c) "Deliverables" shall mean any and all materials, including without limitation, any information, designs, specifications, instructions, software, data, Course Materials, computer programming code, reusable routines, computer software applications, and any documentation relating to any of the foregoing, that Customer has contracted Viant to develop and as more fully specified in a Work Order or as delivered to Customer.

(d) "Facilities" shall mean the equipment and other resources which together constitute a reasonable work environment in which Viant may perform the Services hereunder, including without limitation, reasonable workspace, telephone and facsimile capabilities, computer network connectivity and any other resources set forth on a Work Order.

(e) "Framework Software" shall mean the

software described in the Framework Software License attached hereto, if any.

(f) "Services" shall mean the Consulting Services and/or Training Services (as defined in Sections 2(a) and 2(b) below, respectively) performed by Viant for Customer under the terms of this Agreement, pursuant to and as described in a Work Order.

(g) "Work Order" shall mean Viant's standard form letter agreement for ordering Services, which sets forth and describes the obligations of Customer and Viant, including any Services to be performed by Viant and all applicable fees. Unless otherwise specified on a Work Order, each Work Order shall be governed by the terms of this Agreement and shall be incorporated herein. Viant shall, in its sole discretion, use Work Orders on a per project basis.

(h) "Work Product" means the results and proceeds of Viant's Services hereunder, including without limitation, any and all Deliverables and other materials provided to Customer hereunder.

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2. Services

(a) Consulting Services. Viant will provide consulting services as specified in the Work Order, according to the terms of this Agreement ("Consulting Services"). If a Framework Software License between the parties is attached hereto, Viant will also provide Customer with copies of the Framework Software described therein.

(b) Training Services. Viant will provide Customer with training courses if, and as, specified in the applicable Work Order ("Training Services"). Training Services shall only be available to Customer's employees and to contractors who have signed a non-disclosure agreement with Viant that is at least as equally protective of Viant's interests as this Agreement and which requires the contractor to use any information or training received only in conjunction with Customer's business.

(c) Changes to Services. In the event Customer requests changes to Work Orders, Viant will notify Customer in writing of the impact upon the work schedule, price, payment terms, project dependencies and assumptions and/or project deliverables. Customer will then, within ten business days, notify Viant in writing of its acceptance or rejection of the changes to the Services. If accepted, the terms of such change shall replace the relevant sections of the applicable Work Order. If not accepted in writing by Customer within ten business days no change shall occur.

(d) Project Delays. For fixed price Work Orders, Customer will not be responsible for the payment of additional Fees for delays resulting from circumstances within Viant's control. However, if a fixed price Statement of Work is delayed or if additional Viant resources are required because of a failure by Customer to perform, or to timely perform any obligation, such event shall, after advance written notice is provided to Customer, giving Customer a reasonable time to perform, and after Viant makes reasonable attempts to work around to mitigate the impact of Customer's failure to perform, constitute a change and Customer will compensate Viant for the additional Viant resources and/or time required as a result thereof.

(e) Nonexclusive Services. Viant's services under this Agreement shall be nonexclusive.

3. Fees

(a) Consulting Services. In consideration for Viant's performance of the Consulting Services, Customer shall pay to Viant the fee(s) set forth in the applicable Work Order. Unless otherwise indicated on the applicable Work Order, Consulting Services shall be provided on a fixed-fee basis. Any additional Consulting Services that Customer requests and Viant agrees to provide shall be provided on terms to be mutually agreed upon by the parties. If Consulting Services are to be provided on a time and material basis, the applicable Work Order must so indicate and must describe the scope and charges for such Consulting Services.

(b) Training Services. If applicable and unless the applicable Work Order specifies otherwise, Viant will provide Training Services based on a per student, per day charge plus materials basis. If Training Services are to be provided on a fixed fee basis, the applicable Work Order or engagement letter must so indicate and must describe the scope and charges for such Training Services.

(c) Framework Software. Customer shall pay Viant the license fees set forth in the Framework Software License, if any such license is attached hereto.

(d) Expenses. If indicated in the applicable Work Order, Customer shall reimburse Viant for all reasonable travel, communications and out-of-pocket expenses (including, without limitation, transportation, communication, lodging and meal expenses) incurred in connection with Viant's performance of the Services. Otherwise, if the expense issue is not indicated in the Work Order, Customer shall not be responsible for the reimbursement of travel and living and other project related expenses incurred by Viant incurred in connection with Viant's performance of the Services.

(e) Invoicing and Payment. Viant will invoice Customer (i) monthly for Consulting Services rendered during the preceding month (ii) upon completion of each course for Training Services and (iii) upon delivery of the Framework Software, if any. Payment of all invoices are due and payable within forty-five days (45) days of the receipt of an invoice. Customer will make all payments without right of set-off or chargeback. All payments made pursuant to this Agreement shall be made in U.S. dollars.

(f) Taxes. Fees do not include any present or future sales, use, value added, excise or similar

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taxes applicable to the Services or associated expenses. Viant will separately itemize any applicable taxes on each invoice, or in lieu thereof, Customer shall furnish Viant a properly executed tax exemption certificate, if applicable. Customer shall be responsible for paying any applicable taxes later assessed by a government agency.

(g) Additional. If Customer cancels or reschedules Training Services less than five (5) business days before its scheduled start date, there will be a cancellation fee of fifty percent (50%) of the specified Training Services fee. Such cancellation fee shall be due and payable at the same time as the fee for the applicable Training Services.

4. Proprietary Rights

a) Customer Intellectual Property Rights.

Except as otherwise provided herein, Customer shall own and retain all right, title, and interest in and to any technology or information otherwise developed or created solely for Customer by Viant, including any Intellectual property rights therein. Customer shall own all right, title and interest in any modifications, improvements, or derivative works of deliverables created by Customer, or by Viant or by its Contractors.

b) Viant Intellectual Property Rights.

Except as otherwise provided herein, Viant shall own and retain all right, title, and interest in to any pre-existing methods, technology or information ("Pre-Existing Materials") otherwise owned, developed or created solely by Viant that is later incorporated into a Deliverable, provided that only with respect to such Pre-Existing Materials used after July 1, 2000, Viant must identify such methods, technology, or information in the applicable Work Order or any applicable amendment or Change Order.

c) Jointly Developed Property Rights.

The parties acknowledge that during the course of the Services, certain tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask-works, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, applications, renewals,

extensions, continuations, divisions or reissues thereof now or hereafter in force throughout the universe (including without limitation rights in any of the foregoing) ("Intellectual Property Rights") may be jointly developed by the parties or that Customer may solely develop Intellectual Property Rights that improve the Deliverables or Pre-Existing Materials (the "Customer Intellectual Property Rights"). The parties agree that such jointly developed Intellectual Property Rights and the Customer Intellectual Property Rights shall be solely owned by Customer. Also, the parties shall mutually agree on seeking any protection or registration of such jointly developed Intellectual Property Rights.

d) Grants

Notwithstanding the preceding, Customer grants to Viant a perpetual, fully paid, world-wide, non-exclusive license to use and sublicense, for any purpose, components of the Deliverables that perform commonplace, ordinary or generic functions ("Generic Components") that do not embody or disclose Customer's Confidential Information: provided however, that such license to Viant shall not include Generic Components for which Customer has (i) identified the protectable intellectual property in writing to Viant within 60 days after and (ii) filed for either trademark or patent protection within 180 days after the date that the applicable Customer website goes live or is available for viewing on the worldwide web (the "Launch Date"). Viant grants to Customer a perpetual, fully paid, worldwide, non-exclusive, license to use the Pre-Existing Materials in connection with the Deliverables.

5. Confidentiality

(a) Confidential Information. As used in this Agreement, the term "Confidential Information" shall mean all information about either party's business, business plans, customers, strategies, trade secrets, operations, records, finances, assets, technology, data and information that reveals the processes, methodologies, technology or know how by which either party's existing or future products, services, applications and methods of operation are developed, conducted or operated and other confidential or proprietary information designated as such in writing by the Disclosing Party, whether by letter or by the use of an appropriate Confidential stamp or legend, prior to or at the time any such trade secret or confidential or proprietary information is delivered, or disclosed, by the Disclosing Party to the Receiving Party or is orally or visually disclosed to the Receiving Party by the Disclosing Party. Information which is orally or visually disclosed to the Receiving Party by the

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Disclosing Party, or is disclosed in writing without an appropriate letter, confidential stamp or legend, shall constitute Confidential Information if (i) it would be apparent to a reasonable person, familiar with the Disclosing Party's business and the industry in which it operates, that such information is of a confidential or proprietary nature the maintenance of which is important to the Disclosing Party or if (ii) the Disclosing Party, prior to the end of services, delivers to the Receiving Party a written document or documents describing such information and referencing the place and date of such oral, visual or written disclosure and the names of the employees or officers of the Receiving Party to whom such disclosure was made provided that the components of the Deliverables referenced in Section 4(b) and 4(c) shall not constitute the Confidential Information of either party.

(b) Disclosure of Confidential Information. The Receiving Party shall hold in confidence, and shall not disclose (or permit or suffer its personnel to disclose) to any person outside its organization, any Confidential Information. The Receiving Party and its personnel shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the Disclosing Party. Without limitation of the foregoing, the Receiving Party shall not cause or permit reverse engineering of any Confidential Information or recombination or disassembly of any software programs which are part of the Confidential Information received by it under this Agreement and shall disclose Confidential Information only to persons within its organization who have a need to know such Confidential Information in the course of the performance of their duties and who are bound by a written agreement, enforceable by the Disclosing Party, to protect the confidentiality of such Confidential Information. The Receiving Party shall adopt and maintain programs and procedures that are reasonably calculated to protect the confidentiality of Confidential Information and shall be responsible to the Disclosing Party for any disclosure or misuse of Confidential Information that results from a failure to comply with this provision. The Receiving Party shall be fully responsible for any breach of this Agreement by its agents, contractors, representatives and employees. The Receiving Party will promptly report to the Disclosing Party any actual or suspected violation of the terms of this Agreement and will take all reasonable further steps requested by the Disclosing Party to prevent, control or remedy any such violation.

(c) Limitation on Obligations. The obligations of the Receiving Party specified in Section 5 above shall not apply, and the Receiving Party shall have no further obligations, with respect to any Confidential Information to the extent Receiving Party can demonstrate, by clear and convincing evidence, that such Confidential Information:

(i) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the Receiving Party;

(ii) is in the Receiving Party's possession at the time of disclosure otherwise than as a result of Receiving Party's breach of any legal obligation;

(iii) becomes known to the Receiving Party through disclosure by sources other than the Disclosing Party having the legal right to disclose such Confidential Information;

(iv) is independently developed by the Receiving Party without reference to or reliance upon the Confidential Information; or

(v) is required to be disclosed by the Receiving Party to comply with applicable laws or governmental or regulatory regulations, provided that the Receiving Party provides prior written notice of such disclosure to the Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.

In the event of a disputed disclosure, the Receiving Party shall bear the burden of proof of demonstrating that the Information falls under one of the above exceptions.

(d) Ownership of Confidential Information. The Receiving Party agrees that the Disclosing Party is and shall remain the exclusive owner of the Confidential Information and all patent, copyright, trade secret, trademark and other intellectual property rights therein. No license or conveyance of any such rights to the Receiving Party is granted or implied under this Agreement.

(e) Return of Documents. The Receiving Party shall, upon the termination of this Agreement or the request of the Disclosing Party, return to the Disclosing Party all drawings, documents, and other tangible manifestations of Confidential Information received by the Receiving Party pursuant to this Agreement (and all copies and reproductions thereof).

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(f) Mutual Cooperation. Each party will notify and cooperate with the other party in enforcing the disclosing party's rights if it becomes aware of a threatened or actual violation of the disclosing party's confidentiality requirements by a third party. Upon reasonable request by the disclosing party, the receiving party will provide copies of the confidentiality agreements entered into with its agents or independent contractors.

(f) Injunctive Relief. Customer and Viant acknowledges that any breach of the provisions of this Section 5 may cause irreparable harm and significant injury to an extent that may be extremely difficult to ascertain. Accordingly, both parties agree that in addition to any other rights or remedies available to them at law or in equity, either party will also have the right to seek injunctive relief to enjoin any breach or violation of this Section 5.

(g) Pre-Existing NDA

Notwithstanding any provision above, the parties agree that the Non-Disclosure Agreement dated October 4, 1999 shall remain in full force and effect.

6. Indemnity, Warranty and Liability

(a) Indemnity. Each party (the "Indemnifying Party") will, at its expense, defend and indemnify the other party (the "Indemnified Party") against a claim that any information, design, specification, instruction, software, data or other material furnished to the other party (the "Indemnifying Party Information") infringes a copyright, trademark or patent or misappropriates a trade secret and will pay all losses, liabilities, damages, claims and related expenses (including attorney fees) either awarded by court or agreed to in an out-of-court settlement. Notwithstanding the above, the Indemnifying Party shall have no liability under this Section 6(a) for any claim of infringement based on (i) modifications, adaptations or changes to any Indemnifying Party Information not made by the Indemnifying Party, (ii) the combination or use of any Indemnifying Party Information with any materials not furnished by Indemnifying Party, if such infringement would have been avoided by use of the Indemnifying Party Information alone, or (iii) the use or incorporation of any materials supplied to the Indemnifying Party by the Indemnified Party. In the event any Indemnifying Party Information is held to, or the Indemnifying Party believes is likely to be held to, infringe the intellectual property rights of a third party, the Indemnifying Party shall have the right at its sole option and expense to (x) substitute or modify the Indemnifying Party Information so that it is non-infringing, or (y) obtain for the Indemnified Party a license to continue using the Indemnifying

Party Information. This Section sets forth the parties sole and exclusive remedy for Intellectual property infringement.

(b) Indemnification Procedures. If either party becomes aware of a claim that may require indemnification, the Indemnified Party will promptly notify the Indemnifying Party in writing of the claim and will allow the Indemnifying Party to assume full control of the defense and settlement of the claim. The Indemnified Party will provide the Indemnifying Party with the assistance and information necessary to defend and settle the claim.

(c) Warranty. Each party represents and warrants to the other party that it has the full power, right and authority to enter into and perform this Agreement with the other party. Viant further represents and warrants that the Services will be performed in a professional manner, consistent with generally accepted industry standards. For any breach of such warranty, Customer's exclusive remedy and Viant's entire liability shall be the re-performance of the Services. Customer must request such remedy from Viant in writing not more than fifteen (15) business days following the completion of the Services. Viant further represents and warrants that any software Deliverables, including but not limited to, computer programming code, reusable routines, and computer software applications shall perform in accordance with their applicable specifications at the time of completion of the Services. Customer warrants that it owns or has the right to provide to Viant Customer's Confidential Information. EXCEPT AS SET FORTH IN THIS SUBSECTION NEITHER PARTY MAKES ANY WARRANTY, EXPRESS OR IMPLIED IN CONNECTION WITH THE SERVICES DELIVERABLES, AND INDEMNIFYING PARTY INFORMATION, INCLUDING THE RESULTS AND PERFORMANCE THEREOF, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

(d) Limitation of Liability.

THE MAXIMUM LIABILITY OF VIANT TO CUSTOMER FOR DAMAGES RELATING TO VIANT'S FAILURE TO PERFORM THE (A) CONSULTING SERVICES OR (B) A CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT PURSUANT TO SECTION 6(a) HEREIN, SHALL BE LIMITED TO THE MAXIMUM TOTAL INSURANCE COVERAGE MAINTAINED BY VIANT AT THE TIME OF AN INCIDENT THAT GIVES RISE TO A CLAIM. VIANT WARRANTS

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AND REPRESENTS THAT THE MINIMUM VALUE OF SUCH INSURANCE COVERAGE WILL NOT BE LESS THAN TEN MILLION DOLLARS (\$10,000,000).

NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR (X) ANY LOST DATA OR CONTENT, LOST PROFITS, BUSINESS INTERRUPTION OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THE SOFTWARE OR THE SERVICES PROVIDED HEREUNDER, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR OTHERWISE FOR ANY SUCH CLAIM.

7. Term and Termination

(a) Term. The term of this Agreement shall commence on the Effective Date shown on page 1 of this Agreement and shall continue until terminated pursuant to this Section 7.

(b) Termination for Breach. Either party may terminate this Agreement or any outstanding Work Order if the other party is in material breach of the terms of this Agreement or such Work Order and has not remedied the breach within thirty (30) days of written notice specifying the breach.

(c) Effect of Termination. Upon termination of such Work Order, the following shall apply:

(i) Services for such Work Order shall cease at that time.

(ii) Customer shall pay all amounts due and payable under this Agreement for all Services rendered by Viant through the date of termination. With respect to Services provided by Viant on a fixed fee basis, if any, Customer shall pay Viant a portion of such fixed fee amount equal to the percentage time of the work schedule that has been completed as of the date of such termination.

(iii) All rights and obligations provided under Sections 3 (to the extent any fees or taxes remain unpaid or expenses have not been reimbursed), 4, 5, 6, 8 and 9 shall survive such termination for any reason; provided that Section 5(b) shall survive for a period of three (3) years following such termination for any reason.

(iv) Neither party will be liable to the other for damages, losses, costs or expenses whatsoever on

account of such termination arising from or in connection with the loss of prospective sales, expenses incurred or investments made with the establishment, development or maintenance of either party's business.

(v) Termination will not affect any claim, demand, liability or right of Customer or Viant made prior to such termination, except as described in subsection (iv) above.

8. Non-Compete

Until the earlier of (i) the one-year anniversary of the Launch Date of the Moviefly service; (ii) the one-year anniversary of the date on which Viant completes contracted professional services for the Moviefly service; and (iii) February 1, 2002, Viant hereby covenants and agrees that it will not, on its own or together with any of its affiliated companies, perform any services to or participate in any Competing Business. For purposes of this Section 8, a "Competing Business" shall mean a business which, as of the date on which Viant commences rendering services therefor or participates therein, is owned or operated, in whole or in part, (where "owned" means an equity interest greater than 3%), by any Competing Company, which business is engaged in the delivery of feature-length motion pictures via the internet to Private Residential Dwellings. For purposes of this Section 8, the term "Competing Company" shall mean Warner Bros., Universal Pictures, The Walt Disney Company, Paramount Pictures, Dreamworks, MGM, 20th Century Fox or Blockbuster Video or any of their affiliated companies. For purposes of this provision, the term "Private Residential Dwellings" shall mean private residences (e.g., homes, condominiums, apartments), and shall specifically include school dormitories, hotel rooms and hospital rooms but shall specifically exclude theaters. Viant further agrees that it will not and may not frustrate the intent and purpose of this Section 8 by performing services or participating in a business, which at the time of commencement of such performance or participation, was not owned or operated by a Competing Company, but which Viant knows will be owned by a Competing Company at any point during the time period for this Section 8 specified above.

9. Miscellaneous

(a) No Solicitation. Unless otherwise approved in writing, for the term of any Work Order and for six months beyond the end date specified in the Work Order, neither party will directly or indirectly solicit, (either individually or through a third party), to any employee of the other who is involved in the development, use or provision of Services to

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Customer.

(b) Assignment. Neither party shall assign, transfer nor pledge this Agreement without the prior written consent of the other party, such consent to any assignment shall apply only to the given instance, and shall not be deemed a consent to any subsequent act. Subject to the foregoing, this Agreement inures to the benefit of and is binding upon the successors and assignees of the parties hereto. Notwithstanding the foregoing, Customer shall be permitted to make an assignment to any company it owns or controls or is affiliated with or related to, as well as to any other motion picture company.

(c) Relationship between the Parties. Neither Customer nor Viant is a legal representative, agent, or a partner of the other. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes. Each party will maintain appropriate worker's compensation for its employees as well as general liability insurance.

(d) Force Majeure. Neither party shall be liable for any failure or delay in performance of its obligations hereunder on account of strikes, riots, fires, explosions, acts of God, war, governmental action, or any other cause which is beyond that party's reasonable control.

(e) Entirety. This Agreement, together with the Non-Disclosure Agreement that was entered into by and between the parties hereto dated October 4, 1999, and all applicable Work Orders incorporated herein constitute the complete agreement between the parties and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party. Subject to this Section 8(e) and Section 2(c) above, no other act, document, usage, or customer shall be deemed to amend or modify this Agreement or any Work Order, as applicable. It is expressly agreed that any terms and conditions of any prior communications between Viant and Customer, shall be superseded by the terms and conditions of this Agreement and the applicable Work Order.

(f) Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

(g) Beneficiaries. Viant and Customer shall be a third party beneficiary of all confidentiality agreements contemplated by Section 5(b) above.

(h) Governing Law. This Agreement shall be construed in accordance with the laws of the State of California excluding conflict of laws provisions, applicable to agreements made and fully performed therein.

(i) Settlement Attempt - Arbitration. Any and all claims, disputes, or controversies arising under, out of, or in connection with this Agreement or the breach thereof, (herein "dispute") shall be submitted to the chief operating officer of each party (or their designee) for a good faith attempt to resolve the dispute. The position of each party shall be submitted, and the individuals promptly thereafter shall meet at a neutral site. If the parties are unable to reach agreement within thirty (30) days following such meeting, then any dispute which has not been resolved within said thirty (30) days by good faith negotiations between the parties shall be resolved at the request of either party by final and binding arbitration, and neither party may terminate the Agreement based upon any such dispute except in accordance with the decision of the panel of arbitrators. Arbitration shall be conducted in New York, by three (3) arbitrators. The arbitrators shall be knowledgeable in the commercial aspects of custom software development, Internet applications, technical consulting services and copyright law and otherwise in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The parties shall select the arbitrators within fifteen (15) days after the receipt by the noticed party of the demand for arbitration delivered in the manner set forth herein for providing notice to the parties. If the arbitrators are not selected by the parties within said fifteen (15) days, then the American Arbitration Association shall select the arbitrators. The arbitrators shall make detailed written findings to support their award. The arbitrators shall render their decision no more than forty-five (45) days after the parties finally submit the claim, dispute or controversy to the panel. Judgment upon the arbitration award may be entered in any court having jurisdiction. As part of any award rendered the arbitrators shall determine the prevailing party on any claim or counterclaim and shall award to such prevailing party the costs and fees (including filing fees and other costs, as well as attorney consulting, accounting and expert witness fees) incurred by such party with respect to the claim or counterclaim on which such party prevailed.

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(j) **Waiver.** The failure by either party to enforce at any time any of the provisions of this Agreement, or to exercise any election or option provided herein, shall in no way be construed as a waiver of such provisions or options, nor in any way to affect the validity of this Agreement or any part thereof, or the right of either party thereafter to enforce each and every such provision.

(k) **Publicity.** Viant shall be allowed to use Customer's name on its customer lists and disclose the same to its present and potential customers after execution of this Agreement for a period of two years after Viant stops performing any Services for Customer. Customer agrees to include information concerning Viant and Viant's contribution to the MovieFly project in the "About Moviefly" section of the MovieFly website at all times during the first year while the site is publicly available. In addition Customer agrees that Yair Landau will, within one month of the market launch of the MovieFly service, grant a video testimonial describing Viant's involvement in, and contribution to, the MovieFly project. Customer shall have final approval rights

over the testimonial and any exhibition of such testimonial shall be in the complete, unedited, approved, version. Customer and Viant agree that at least two joint press releases concerning MovieFly and Viant's involvement and contribution to the MovieFly project and one joint Viant-Customer appearance at trade shows or conferences shall take place within one year of the launch of the MovieFly website. All press releases issued by either party referencing this Agreement or the Services performed hereunder shall require approval in writing of the press release copy by both parties.

(l) **Notice.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be sent by reputable overnight carrier, registered or certified mail, postage prepaid or transmitted by telegram or telefax if confirmed by such mailing, to Customer and Viant at their respective addresses set forth on page 1 of this Agreement. Either party may change its address by written notice to the other.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have set forth their signatures as of the date first set forth above.

VIANI CORPORATION

By: Name: DWAYNE NESMITHTitle: CHIEF FINANCIAL OFFICERDate: OCT. 11, 2000SONY PICTURES DIGITAL
ENTERTAINMENT INC.By: Name: Yair LandauTitle: PRRS. - SPDEDate: OCT 12, 2000

Exhibit A: Form of Work Order

VIA NT

VIA NT
89 South Street
Boston, MA 02111
<http://www.VIA NT.com>

XXXX999

Work Order

This Work Order is incorporated into and governed by the Master Services Agreement number *MSANumber* dated *MSADate* between Viant, 89 South Street, Boston, MA 02111 ("Viant") and *CustomerName* ("Customer").

1. Consulting Services Description.

Description.

2. Location where Services are rendered.

Location.

3. Principal Contacts.

The principal contact for Viant for this Work Order is *ViantContact*.
The principal contact for Customer for this Work Order is *CustomerContact*.

4. Schedule.

This Work Order will expire *ExpirationDate*.

5. Charges for the Services.

Consulting Category	Start Date	End Date	Duration	Rate	Total Cost
Category	StartDate	EndDate	Duration	Rate	Cost
Total					TotalCost

DescriptionOfExpenses

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Accepted by:

VIA NT

Customer

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

This Work Order is "Confidential Information," as defined in Section 5(a) of the Master Services Agreement, and can only be modified in accordance with the terms set forth in Section 2(d) thereof.

Jan-22-2001 06:03pm

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**SONY**
PICTURESSONY PICTURES
DIGITAL ENTERTAINMENT

MEMORANDUM

Date: December 11, 2000

To: Distribution

From: Corii D. Berg

cc:

Re: Viant/SPDE

*Viant/SPDE
(give feedback)*

Attached for your files is a fully-executed copy of Change Order #1 to the Work Order dated September 15, 2000 between Sony Pictures Digital Entertainment Inc. and Viant Corporation.

Distribution:

Peter Halt
Patrick Kennedy
Jennifer Kuo
Yair Landau
Jim Pickell
Susie Oh
Ira Rubenstein
Scott Sherr
Mitch Singer

a Sony Pictures Entertainment company

Jan-23-2001 06:03pm From-SPDE BUS AND LEGAL AFFAIRS

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Change Order #1

This **Change Order #1** is issued pursuant to, and modifies, the Work Order dated September 15, 2000 by and between **Sony Pictures Digital Entertainment Inc.** ("SPDE") and **Viant Corporation** ("Viant"). Any term not otherwise defined herein shall have the meaning assigned to it in the Work Order.

Service Information:

MovieFly

Project Name

Launch v 1.0 - Stage 2

Phase

Background:

On Friday, November 3, 2000 SPDE asked Viant to analyze the impact of a project scope change to the MovieFly Launch 1.0 project. The requested change involves the integration of Real Networks technology into the MovieFly site in addition to the Windows Media Player Implementation already planned.

Viant completed the analysis and has revised the work schedule, under the assumption of no further changes to previously determined Launch 1.0 scope other than accommodation of Real's technology. Three documents: *Impact Assessment of Incorporating Real Networks*, *Dual Codec Impacts on the User Experience* and *Encryption & Licensing Architecture Impact Analysis* offer a detailed understanding of the changes to the site applications and delivery architecture.

Agreed upon Changes:

1. The end date for the Services is changed from January 15, 2001 to March 1, 2001 to address the additional work required by this Change Order. In the event the end date needs to be extended as due to bugs with Real's alpha stage solution, SPDE agrees to compensate Viant for the additional time required to remedy such bugs. Such additional compensation shall be mutually established by Viant and SPDE.
2. Viant's professional fees increase from \$4,492,000 to \$5,665,000 (an increase of \$1,173,000) to accommodate the additional time and scope.
3. Viant extends to SPDE an additional credit of \$176,000, to be used in connection with a future phase, if any, of meaningful work and to be identified within 1 year of execution of this agreement. For purposes of this agreement, the term "Meaningful Work" shall mean a project or work phase that fits within, and may be reasonably achieved by the Viant service model.

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4. Viant agrees to apply \$335,000 of SPDE's existing credit to finance a portion of the extension. Thus, Viant will invoice SPDE \$5,330,000 for the total Moviefly Launch - Stage 2 engagement.

5. The payment schedule will be changed to the following:

Total Billing	Payment Amount & Due Date
\$5,330,000	\$1,492,000 to be invoiced at project kick-off (Unchanged)
	\$1,000,000 to be invoiced at week 6 (Unchanged)
	\$1,000,000 to be invoiced at week 12 (Unchanged)
	\$1,000,000 to be invoiced at week 18 (Unchanged)
	\$438,000 to be invoiced on January 15, 2001 (New)
	\$400,000 to be invoiced on March 1, 2001 (New)

6. Viant and SPDE agree that the remaining SPDE credit for future work is \$1,002,000.

7. All other terms and conditions remain the same, including but not limited to, Viant's non-compete obligations and the travel and living percentage expense limitation.

Viant Corporation

Sony Pictures Digital
Entertainment

By: 

By: 

Name: Brian Lakamp

Name: Yair Landau

Title: Senior Client Partner

Title: President

Date: November 13, 2000

Date: _____

Rittmaster, Ted R.

From: Brennan Wall [bwall@viant.com]
Sent: Friday, March 02, 2001 3:27 PM
To: 'Rittmaster, Ted R.'
Cc: susie_oh@spe.sony.com; fred.zustak@am.sony.com; milton.frazier@am.sony.com
Subject: RE: patent application telephone discussion

Dear Mr. Rittmaster,
Attached please find the information you requested.

Kindest regards to you,

Brennan Wall, Esq.
Viant Corporation
89 South Street
Boston, Massachusetts 02111

Andrew C. Frank
2166 Broadway #15E
New York, NY 10024
US Citizen

Brian David Lakamp
18131 Kingsport Drive
Malibu, CA 90265
US Citizen

Bryan Gentry Spaulding
55 Santa Clara Ave.
San Francisco, CA 94127
US Citizen

Charles Jonathan Evans
55 West 14th Street, Apartment 2E
New York, NY 10011
US Citizen

Everton Anthony Schnabel
428 N. Laurel Ave.
Los Angeles, CA. 90048
US Citizen

Hartmut Ochs
818 Parkman Ave.
Los Angeles, CA 90026
German Citizen (Hunter is presently working in Viant's Munich office)

Jeremy Eli Barnett
563 Via de la Paz
Pacific Palisades, CA 90272
US Citizen

Seth David Palmer
33 Gold Street, Apt. 509
New York, NY 10038
US Citizen

Todd Michael Henderson
2249 Veteran Ave
Los Angeles, CA 90064
US Citizen

William W. Chong
20 Confucius Plaza #18M
New York, NY 10002
US Citizen

Bruce Forest
10 Spring Valley Road
Weston, CT
(Zip code unknown, citizenship unknown)

Steven Koenig
1751 Croner Avenue
Menlo Park, CA 94025
(Citizenship unknown)

Karl Wiersholm
7624 116th Ave. N.E.
Kirkland, WA 98033
(Citizenship unknown)

-----Original Message-----

From: Rittmaster, Ted R. [mailto:TRittmaster@foleylaw.com]
Sent: Wednesday, February 28, 2001 3:06 PM
To: 'bwall@viant.com'
Cc: 'susie_oh@spe.sony.com'; 'fred.zustak@am.sony.com';
'milton.frazier@am.sony.com'
Subject: patent application telephone discussion

Dear Mr. Wall:

In our telephone discussion this morning, you requested a list of the names of Viant (or former Viant) employees who were identified as inventors for a patent application that was filed last year. Those individuals are:

1. Steve Koenig
2. Seth Palmer
3. Bruce Forest
4. Andrew Frank
5. Will Chong
6. Bryan Spaulding
7. Jeremy Barnett
8. Chad Evans
9. Evan Schnabel
10. Hunter Ochs
11. Karl Wiershoim
12. Todd Henderson
13. Brian Lakamp

The above spellings may not be perfect. Of the above individuals, we were informed that Steve Koenig, Bruce Forest and Karl Weirshoim may no longer be with Viant. In addition, we were informed that Hunter Ochs is in Germany.

As we discussed, the U.S. Patent and Trademark Office requires certain

information about each inventor named in a patent application. That information is: 1) full legal name; 2) current mailing address; and 3) country of citizenship. Also as we discussed, the deadline for submitting signed documents (including the above information) is March 16, 2001. Your assistance in helping us collect the information is greatly appreciated.

Per our discussion, I will ask a Sony counsel (or other suitable Sony representative) to contact you to verify my involvement in the project and to discuss the disclosure issues that you raised.

Best regards,

Ted R. Rittmaster
Foley & Lardner
Intellectual Property Department
Los Angeles, California
direct (310) 975-7963

FOLEY & LARDNER

BRUSSELS
CHICAGO
DEL MAR
DENVER
DETROIT
JACKSONVILLE
LOS ANGELES
MADISON
MILWAUKEE

ATTORNEYS AT LAW
2029 CENTURY PARK EAST, SUITE 3500
LOS ANGELES, CALIFORNIA 90067-3021
TELEPHONE: (310) 277-2223
FACSIMILE: (310) 557-8475
WWW.FOLEYLARDNER.COM

ORLANDO
SACRAMENTO
SAN DIEGO
SAN FRANCISCO
TALLAHASSEE
TAMPA
WASHINGTON, D.C.
WEST PALM BEACH

WRITER'S DIRECT LINE
(310) 975-7963

EMAIL ADDRESS
trittmaster@foleylaw.com

CLIENT/MATTER NUMBER
041892-0205

September 26, 2001

Brennan Wall, Esq.
VIANT
3562 Eastham Drive
Culver City, CA 90232

Re: Sony - MovieFly Patent Application

Dear Mr. Wall:

As you are aware, several Viant (or former Viant) employees or contractors were involved in the development of technologies relating to patent applications filed by Sony Pictures Digital Entertainment, in connection with the Moviefly project. As we had previously discussed, the U.S. Patent and Trademark Office requires the filing of Inventor Declarations and allows the recordation of Assignment documents for all U.S. patent applications, including the noted Moviefly patent applications.

Unfortunately, we did not have all of the inventors addresses to prepare the declarations and assignments for the following Viant (or former Viant) employees or contractors:

Andrew C. Frank
Charles J. Evans
Everton J. Schnabel
Hartmut Ochs
Jeremy E. Barnett
Todd M. Henderson
William Chong
Bruce Forest
Steven Koenig

As we are required to make reasonable attempts to obtain signatures from inventors, we are now requesting your assistance in obtaining those signatures. You have requested that we send communications to Viant inventors to you, rather than directly to the Viant employees. Accordingly, enclosed are copies of documents for the above-listed Viant inventors.

Brennan Wall, Esq.
September 26, 2001
Page 2

For each of the enclosed documents (application, declaration and assignment), please have the identified Viant inventor review the documents and, if accurate, sign, date and return the documents to us. If any of the documents are inaccurate or if you or the inventors have any questions regarding the documents, please contact me as soon as possible (in view of deadlines noted below). If you believe that any of the identified Viant inventors are refusing to review or sign the documents, please inform us of that refusal and any reason for refusal given by the inventors.

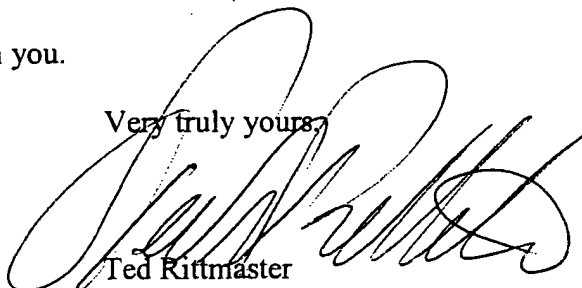
Please note that the documents must be filed with the U.S. Patent and Trademark Office (USPTO) within a preset time period set by the USPTO, as follows:

For the application identified by our docket no. 041892.0205, the next deadline is October 27, 2001.

Due to the above-noted deadline, your assistance in obtaining inventor review and signatures on the enclosed documents is greatly appreciated. Please contact us by October 11, 2001 with a report on your progress. If you have any questions regarding these matters, please do not hesitate to contact us.

We look forward to hearing from you.

Very truly yours,

A large, stylized handwritten signature in black ink, likely belonging to Ted Rittmaster, is written over the typed name.

Ted Rittmaster

TRR/jls
Enclosures

cc: Susie Oh

FOLEY & LARDNER

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WRITER'S DIRECT LINE
(310) 975-7963

EMAIL ADDRESS
trittmaster@foleylaw.com

CLIENT/MATTER NUMBER
041892-
0203, 0205, 0206, 0207, 0209

October 4, 2001

VIA OVERNIGHT DELIVERY

Brennan Wall, Esq.
VIA NT
89 South Street
Boston, MA 02111

Re: Sony - Moviefly Patent Applications

Dear Mr. Wall:

Further to our letters of July 27, 2001, and September 5, 2001, we still have not received any response from the several Viant (or former Viant) employees or contractors that were named as inventors in the Sony Moviefly patent applications. In addition, to the inventor's listed in our September 5, 2001, letter, the following inventors are also believed to be Viant (or former Viant) employees or contractors who have not responded to our previous communications: Steven Koenig and Karl Wiersholm. Also, we have not received your response to our September 5, 2001, letter.

As we have previously informed you, we are required to seek signatures from the inventors. Accordingly, we again request your assistance in that endeavor. With our letter of September 5, 2001, we provided you with sets of documents containing a patent application, inventor declaration and assignment document for each inventor of each application to review, execute and return to us. We enclose herewith a similar set of documents for Mr. Koenig and Mr. Wiersholm. We are enclosing those documents for forwarding to Mr. Koenig and Mr. Wiersholm, in accordance with your request to send communications directed to Viant inventors through you, rather than directly to the Viant employees.

Please note that the final (non-extendable) deadlines for filing signed documents with the U.S. Patent and Trademark Office for the Moviefly patent applications expire on various dates in October and November (depending upon the particular patent application). The earliest of those final deadlines (relating to the application having our docket no. 0207) is October 14, 2001. Unless we receive signed documents from all of the inventors by October 5, 2001, we will likely proceed with the filing of petitions, requesting the U.S. Patent and Trademark Office to accept the applications without inventor signatures.

FOLEY & LARDNER

Brennan Wall, Esq.

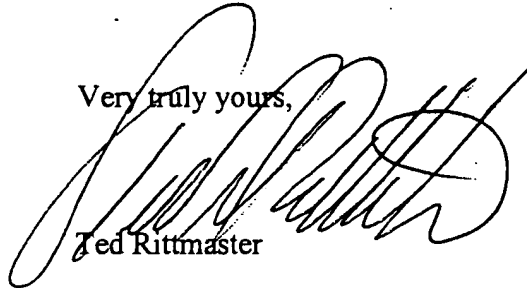
October 4, 2001

Page 2

Due to the above-noted deadlines, your assistance in obtaining inventor review and signatures on the enclosed documents is greatly appreciated. If you have any questions regarding these matters, please do not hesitate to contact us.

We look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ted Rittmaster", is written over the typed name. The signature is stylized with large, sweeping loops.

Ted Rittmaster

TRR/jls

Enclosures

cc: Susie Oh

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CLIENT/MATTER NUMBER
041892-0205

November 27, 2001

PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGE

VIA FEDERAL EXPRESS

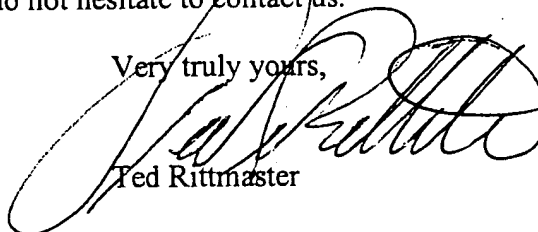
Susie Oh, Esq.
Sony Pictures Entertainment
9050 West Washington Blvd.
Culver City, CA 90232

Re: U.S. Patent Application Serial No. 09/828,406
WEBSITE SYSTEM AND PROCESS FOR SELECTION
AND DELIVERY OF ELECTRONIC INFORMATION
ON A NETWORK
Your Ref.: 50R4655.01
Our Ref.: 041892-0205

Dear Susie:

Please assist our efforts to have Brian Lakamp review and execute the enclosed documents (Application, Declaration and Assignment) for the above referenced application. Once the documents are executed, please return them to us as soon as possible. If you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,



Ted Rittmaster

TRR/jls
Enclosures

FOLEY & LARDNER

ATTORNEYS AT LAW

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EMAIL ADDRESS
trittmaster@foleylaw.com

CLIENT/MATTER NUMBER
041892.0205

November 27, 2001

VIA FEDERAL EXPRESS

**PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT PRIVILEGE**

Brian Lakamp
18131 Kingsport Drive
Malibu, CA 90265

Re: U.S. Application Entitled:
WEBSITE SYSTEM AND PROCESS FOR SELECTION AND DELIVERY
OF ELECTRONIC INFORMATION ON A NETWORK
Your Ref.: 50R4655.01
Our Ref.: 041892-0205

Dear Brian:

We are pleased to report that the above-identified patent application was filed on behalf of Sony Pictures Digital Entertainment, in which you are named as one of the co-inventors. Your development work on the subject matter of the patent application may have occurred in connection with your employment with Sony, Viant or other organization working with Sony Pictures Digital Entertainment on the Moviefly project.

We must now submit a signed inventor's declaration from each inventor. Each inventor must sign a copy of the enclosed declaration (although separate copies may be signed by the individual inventors). Please note the due date of **December 27, 2001** has been set for submission of the signed declaration. To meet the fourth-month extended due date, please review the accompanying documents and sign and return the declaration and assignment form to us as soon as possible and no later than **December 7, 2001**.

Your Patent Application is Enclosed for Review and Execution

In responding to the Notice of Missing Parts, the above-identified patent application must be reviewed again for accuracy by the inventors. In this regard, it is particularly important that the application include a clear explanation of the best mode of practicing the various aspects of the invention for which patent application is desired. It is also extremely important that the application completely describe the invention and explain to an individual of ordinary skill in the art everything that will be required to make and use the invention.

In addition, the claims at the end of the specification must particularly point out and distinctly claim the subject matter of the invention. The claims should cover the invention in its broadest aspects and also more specifically. Please review the claims for any element which could be eliminated without losing the essence of the invention.

If the application is acceptable, the Declaration must be dated and signed so that typed names and signatures are exactly the same. If changes in the application or declaration are needed, please call me at (310) 975-7963.

Assignment

The Assignment needs to be dated and signed. The Assignment transfers ownership of the patent application from the inventors to the company.

The Duty of Disclosure Requires that We Submit Prior Art to the Patent Office Within Three Months of Filing this Application

So that you might prepare for the next step in the patent application process, you should be aware that the law imposes a duty on the inventor, the patent attorney, any assignee company, and anyone else who is substantially involved in the preparation or prosecution of the patent application. The duty is one of candor and good faith to disclose to the U.S. Patent and Trademark Office all information of which these people are aware which is material to the examination of the patent application. If the duty is not properly fulfilled, any patent issuing from the application may be found invalid.

We ask that you gather together and forward to us all documents, articles, videos, brochures, advertisements, etc., about devices, whether or not they were sold commercially, which were used or described in public by you or others, which have some reasonable similarity to your invention.

Brian Lakamp

November 27, 2001

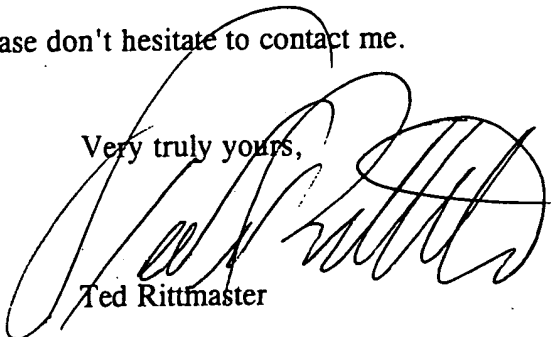
Page 3

Summary

In summary, please return to me by December 7, 2001, the application with signed Declaration and the Assignment.

If you have any questions, please don't hesitate to contact me.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read 'Ted Rittmaster', is written over the closing text.

Ted Rittmaster

TRR/js

Enclosures: Application
Declaration
Assignment

cc: Andrea Petit-Clair, Manager, Patent Administration (w/o encl.)
Fred Zustak, Esq. (w/o encl.)
Susie Oh (w/o encl.)

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